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The Future Global Governance of Space Security - International Law and Armed Conflicts Involving Space Technology

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Technological Challenges for the Humanitarian Legal Framework

- International Law and technology
- IHL – embedded into International Law – means and methods of warfare
- IHL – applies to novel types of weaponry and new technological developments

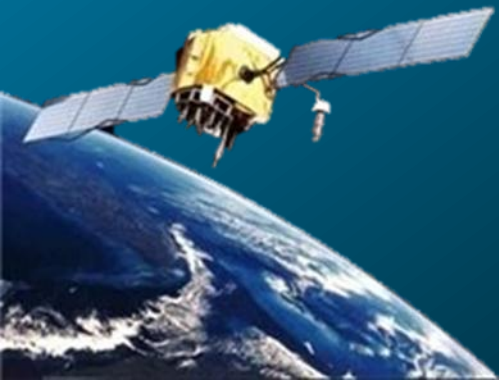
but.....

- is (usually) 'one war late'
- How to react in law to technological challenges on the battlefield?
- What constitutes 'the battlefield'?
- Are we (should we be) applying 20th Century laws to 21st Century technology?
- Are the IHL laws applicable? relevant? appropriate? sufficient? clear?
- What 'shapes' what?



Technological 'Challenges' to IHL include....

- cyber technology
- remote-controlled weapons systems technology
- robotics technology
- space technology
- others?



Opportunities and Risks

- **Potential to minimize casualties**
- **Greater selectivity => an obligation to use?**
- **non-lethal / less-lethal means of warfare**

but.....

- **Increasing trend to 'long distance warfare'**
=> a disconnect
- **It's 'too easy'**
- **More attacks?**
- **A lower threshold?**
- **Increased destructive capabilities**
- **More likely to 'render death inevitable'**
- **Moral and ethical challenges – moral disengagement**
- **Legal uncertainties**

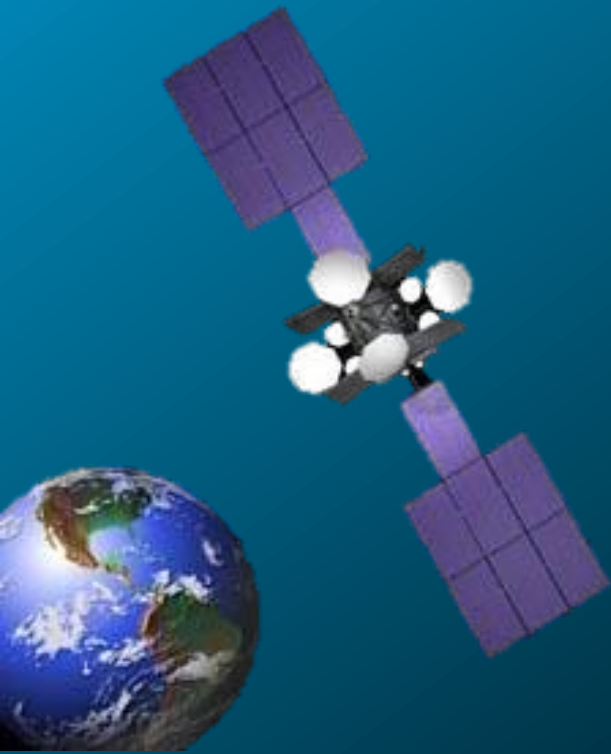
Outer Space Treaty – Principles Relevant to Military Uses



- Freedom to explore and use / free access for all
- 'province of mankind' / 'common heritage of mankind'
- No appropriation / claims of sovereignty
- International law applies (including UN Charter)
- Interests of maintaining international peace and security
- No nuclear weapons / weapons of mass destruction
- 'Peaceful Purposes'
- State responsibility / liability for 'national activities in outer space'
- International cooperation / keeping UN informed

Military Uses of Outer Space – a reality

- Peaceful Purposes
 - ‘Non-military’ v ‘non-aggressive’
 - a redundant argument?
- Operation Desert Storm – the first ‘Space War’
 - Kosovo, Afghanistan, Iraq, Libya etc
- Military satellites / space assets – an ‘integrated battle platform’
- Commercial satellites
 - ‘dual use’ satellites
 - Communications
 - GPS technology
 - Remote sensing
- Weapons systems
 - Earth => Space - missile defence shield / ballistic missiles / ASATS
 - Space => Space
 - Space => Earth
- ‘Fourth Territory’?



Space Security – International / National Policy

- Activities of the Major Space Faring States
 - A 'Space Pearl Harbour'
- A Space Arms Race? – UNGA Resolutions
 - the weaponisation of space?
- Draft 2008 Treaty to Prevent Weapons
- TCBMs – Draft International Code of Conduct



A Hypothetical? – An Application of IHL Principles

- International law applies in outer space
- No 'territorial' limitation to *jus in bello*
 - IHL Principles apply
 - in combat zone
 - where acts cause (direct) effects?
- Outer Space used for
 - 'passive' military activities
 - as an 'active' theatre of warfare?



Application of IHL Principles

- Principles of
 - Distinction
 - Military Objective
 - Proportionality
 - appropriate for actions in outer space?
- Can a satellite be a legitimate target of war?
 - military satellites
 - 'dual-use' satellites
- Effects?
 - communities / States / regions etc reliant on satellite technology



Concluding Comments

- Space technology already used to conduct armed conflict
- Increasing likelihood that space may become a 'theatre of war'
- Legal 'status' of satellites – legitimate military target?
- How to apply / adapt the *jus in bello*?
- Need for specific standards
 - Definitions – 'space' / 'peaceful purposes' / 'military uses'
- Need to adhere to the collective 'humanity' principles of space law and IHL

